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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/770,632	01/29/2001	Nils B. Lahr	39505A	6761

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FELLERS SNIDER BLANKENSHIP
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EXAMINER

ALAM, UZMA

ART UNIT PAPER NUMBER

2157

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/770,632

Applicant(s)

LAHR, NILS B.

Examiner

Uzma Alam

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 23 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This action is responsive to the application filed on February 23, 2005. Claims 1-15 are pending. Claims 1, 5, 9, and 13 have been amended. Claim 1 has been amended.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 5-15 rejected under 35 U.S.C. 102(e) as being anticipated by DeMoney US Patent No. 6,721,789. DeMoney discloses the invention as claimed including managing access to a continuous multimedia data streams (see abstract).

As per claims 5 and 9 DeMoney discloses a method for processing media requests from clients in a content distribution system comprising the steps of:

preparing media for delivery via said content distribution system and storing, in a database of a network operation center delivery information relating to said media comprising at least one of bit rate, bandwidth and media subscription type (having a multimedia storage server which clients can access; column 1, lines 14-63; column 9, lines 1-3; column 10, lines 23-41);

analyzing request information transmitted from a client via a request for media, said request information comprising bandwidth and connection capability of said client (analyzing clients request; column 6, lines 45-54; column 9, lines 53-67; column 15, lines 31-60); and determining from said request information and said delivery information and substantially in real-time if said client can receive the requested said media within selected system constraints (determining client information and sending the proper data stream; column 2, lines 53-67; column 3, lines 42-47; column 6, lines 49-64; column 9, lines 26-52; column 16, lines 18-33; column 18, lines 8-35).

As per claim 6, DeMoney discloses a method as claimed in claim 5, further comprising the step of denying said request if said client is not authorized (column 9, lines 26-52).

As per claim 10 DeMoney discloses a method as claimed in claim 9, further comprising the step of prioritizing fulfillment of said request with respect to other requests depending on the type of said subscription associated with at least one of the requested media and said client (column 9, lines 26-52).

As per claim 13 DeMoney discloses a content distribution system comprising:
a plurality of servers from which to obtain streaming media, wherein said streaming media is stored as a media stream in storage devices of each of the plurality of servers (having a multimedia storage server which clients can access; column 1, lines 14-63; column 9, lines 1-3; column 10, lines 23-41);

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an operations center for dynamically determining which of said servers are to serve which of a plurality of media streams and for redirecting clients to other said servers when the corresponding one of said servers does not store a requested media stream (determining client information and sending the proper data stream; column 2, lines 53-67; column 3, lines 42-47; column 6, lines 49-64; column 9, lines 26-52; column 16, lines 18-33; column 18, lines 8-35); and

a transport module operable to analyze communications between a client and one of said servers, which comprise a request for one of said media streams and a response, substantially in real-time to determine if said client can receive said media stream within selected system constraints (analyzing clients request; column 6, lines 45-54; column 9, lines 53-67; column 15, lines 31-60).

As per claims 7, and 11 DeMoney discloses a method as claimed in claims 2, 6 and 10 further comprising the step of responding to a request via at least one of rewriting original metadata associated with said request using protocol supported responses, and automatically generating metadata associated with said request to perform at least one of denying said client access to the requested media and redirecting said client (column 7, lines 58-67; column 8, lines 1-11; column 12, lines 19-67; column 13, lines 17-65; column 14, lines 51-67; column 16, lines 18-33; column 18, lines 8-35).

As per claims 8, 12 and 14 DeMoney discloses a method as claimed in claims 1, 5 9 and 13 wherein said request and a response to said request occur within a real-time streaming protocol connection (column 2, lines 3-67).

As per claim 15, DeMoney discloses a content distribution system as claimed in claim 13, wherein said request is associated with metadata relating to at least one of client identification, and client bandwidth and connection capability said transport module being operable to deny client access to the requested media stream if said client cannot receive the requested media stream within selected system constraints (determining client information and sending the proper data stream; column 2, lines 53-67; column 3, lines 42-47; column 6, lines 49-64; column 9, lines 26-52; column 16, lines 18-33; column 18, lines 8-35).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeMoney US Patent No. 6,721,789 in view of Gupta et al. US Patent Publication No. 2002/0038374.

As per claim 1 DeMoney discloses a method for processing media requests

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from clients in a content distribution system comprising the steps of:

preparing media for delivery via said content distribution system and storing, in a database of a network operation center delivery information relating to said media comprising at least one of bit rate, media delivery bandwidth and media subscription type (having a multimedia storage server which clients can access; column 1, lines 14-63; column 9, lines 1-3; column 10, lines 23-41);

analyzing request information transmitted from a client via a request for media, said request information comprising bandwidth and connection capability of said client (analyzing clients request; column 6, lines 45-54; column 9, lines 53-67; column 15, lines 31-60); and

determining from said request information and said delivery information and substantially in real-time if said client can receive the requested said media within selected system constraints (determining client information and sending the proper data stream; column 2, lines 53-67; column 3, lines 42-47; column 6, lines 49-64; column 9, lines 26-52; column 16, lines 18-33; column 18, lines 8-35).

DeMoney does not disclose analyzing client media reception bandwidth and connection capabilities based on a request for media by said client. Gupta discloses analyzing client media reception bandwidth and connection capabilities based on a request for media by said client. See paragraphs 0095-0099. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine client request of DeMoney with analyzing request of Gupta. A person of ordinary skill in the art would have been motivated to do this so the server sends the best quality stream available to the client.

As per claim 2, DeMoney discloses a method as claimed in claim 1, further comprising the step of denying said request if said client cannot receive the requested media within said selected system constraints (column 9, lines 26-52).

As per claim 3 DeMoney discloses a method as claimed in claims 2, 6 and 10 further comprising the step of responding to a request via at least one of rewriting original metadata associated with said request using protocol supported responses, and automatically generating metadata associated with said request to perform at least one of denying said client access to the requested media and redirecting said client (column 7, lines 58-67; column 8, lines 1-11; column 12, lines 19-67; column 13, lines 17-65; column 14, lines 51-67; column 16, lines 18-33; column 18, lines 8-35).

As per claim 4 DeMoney discloses a method as claimed in claims 1, 5 9 and 13 wherein said request and a response to said request occur within a real-time streaming protocol connection (column 2, lines 3-67).

Response to Arguments

1. Applicant's arguments filed February 23, 2005 have been fully considered but they are not persuasive.
2. Applicant's arguments with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection.

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3. Applicant's arguments for claims 5 and 9 fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

4. In response to applicant's argument for claim 13 that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., provide streaming media to the client based on the actual capability of the client) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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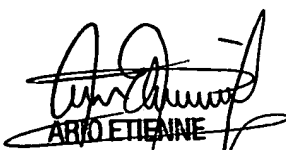
however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uzma Alam whose telephone number is (571) 272-3995. The examiner can normally be reached on Monday-Tuesday 9 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Uzma Alam
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